

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Civ. No. 10-2102 (PAM/JJK)

Petitioner,

v.

ORDER

Mark Arhebamen,

Respondent.

This matter is before the Court on Respondent's "Motion for Delayed Ruling or Stay of Ruling" and an addendum to that Motion. Given that the Court has issued the ruling Respondent seeks to delay (June 23, 2011, Order (Docket No. 47)), Respondent's request for a delayed ruling is moot.

Respondent contends that his imminent resentencing will likely result in him being released from prison, because he has served longer than the applicable sentencing guidelines range for his offenses. Thus, he asks the Court to stay any ruling on the Petition, arguing that if the Petition is granted, the staff at FMC-Rochester will begin forcibly medicating him and render him incapable of participating in his resentencing hearing.

As emphasized in the Order, however, the granting of the Petition does not give FMC-Rochester the permission to begin immediate forced medication. (*Id.* at 3-4.) Rather, the facility must follow proper procedures, including allowing Respondent the opportunity to oppose the forced medication, before it can administer such medication. (*Id.*) Moreover, if Respondent is released, as he predicts, the issue is moot: the Petition seeks only to commit

Respondent to a mental health facility for the duration of his sentence and no longer. See 18 U.S.C. § 4245(d) (permitting custody “until [prisoner] is no longer in need of such custody for care or treatment or until the expiration of the sentence of imprisonment, whichever occurs earlier”).

The issue raised in the addendum to the Motion was likewise discussed in the Order on the Petition. (June 23, 2011, Order at 6.) There is simply no merit to Respondent’s contention that it was improper for the presiding Magistrate Judge to take a tour of the facility in which Respondent is housed. The Court will not dignify Respondent’s arguments on this point with any further discussion.

Because there is no reason to stay the Order granting the Petition, **IT IS HEREBY ORDERED that** Respondent’s Motion for Delayed Ruling or Stay of Ruling (Docket No. 49) is **DENIED**.

Dated: June 29, 2011

s/Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge